Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
	)	
Cross-Ownership of Broadcast Stations and Newspapers	))	MM Docket No. 01-235
	)	
Newspaper/Radio Cross-Ownership Waiver Policy	))	MM Docket No. 96-197

COMMENTS OF THE MID-WEST FAMILY STATIONS

The Mid-West Family Stations[1] ("Mid-West") hereby submits its comments on the above-referenced Notice of Proposed Rule Making[2] (the "NPRM"). Mid-West urges the Commission to maintain its strong commitment to "[t]he longstanding goal . . . to promote competition and viewpoint diversity within local radio markets."[3] The Commission should not permit dominant monopoly daily newspapers to own radio stations in their home markets if radio ownership in that market is already heavily concentrated. Mid-West's experience, derived from

1 Mid-West is a group of related companies which operates 37 radio stations in 20 midwestern communities. Mid-West has prided itself on integrating its local management into station ownership, so that the responsiveness of the licensee to local concerns is highlighted. Thus, in each market, a different corporate entity holds the licenses. Although there are common owners of stock throughout the group, senior management in each local station is given an opportunity, and encouraged, to make an investment in their owns stations, thereby giving them a direct stake in making their stations truly responsive to their communities. By almost any objective measure, the Mid-West Family Stations are characterized by their strong commitment to covering local events and becoming integral participants in their local communities.

2 *In the Matter of Cross-Ownership of Broadcast Stations and Newspapers*, Notice of Proposed Rule Making, MM Docket Nos. 01-235 and 96-197 (Sep. 13, 2001) ("NPRM").

3 *1998 Biennial Regulatory Review*, 15 FCC Rcd 11058 (2000) at ¶52.

prior competition with radio/newspaper combinations, demonstrates the truth behind the FCC's observation that "it cannot be said that consolidation has enhanced competition or diversity, and, indeed, may be having the opposite effect."[4] A rule change granting dominant monopoly publishers additional market power will simply enable them to hinder both competition and viewpoint diversity in sole pursuit of their own business interests to the detriment of the public interest.

Discussion

I. Control of Local Media Has Become Increasingly Concentrated Since Enactment of The 1996 Telecommunications Act.

In a number of local markets, two or three owners control nearly all of the community's radio commercial market share. In Madison, Wisconsin, for example, three radio station group owners and their affiliates account for the vast majority of the radio market revenue.[5] This has occurred even though more stations are on the air today than in 1996. In many cases, this industry consolidation has diminished the amount of local news, information and similar public interest broadcasting on the air. With less airtime devoted to such programming, the diversity of viewpoints broadcast has similarly contracted. More importantly, as local markets consolidate, the opportunities for local advertisers decreases. As set forth in detail below, given the pre-eminent position of the local monopoly newspaper, allowing that paper to also own a significant local radio operator will result in adverse effects on local advertising, and less opportunity for a broad coverage of community events.

---

4 *Id.* at ¶59.

5 The three include Clear Channel Communications Inc., Entercom Communications Corp. and Mid-West Management, Inc, the parent of The Midwest Family Stations. According to BIA, these three groups together account for 94 percent of the market's radio revenue.

II. Even if the Number of Voices Has Increased, the Quantity of Coverage of Local Events on Radio Has Actually Declined.

While it is true that group owners are more likely to seek larger audiences by targeting each of their stations to a differentiated markets rather having each station attempt to appeal to a broad audience, this has not always led to an increase in local viewpoint diversity. Music and entertainment formats may be diversified on the surface, but locally produced original programming is far less common today – especially news and public affairs.[6] For instance, Clear Channel, the country's largest owner of radio stations, has developed a "hub and spoke" programming system in which the hosting of music programming and anchoring of newscasts are centrally produced for several stations, often for stations in different markets. While such efforts save money and may even improve the entertainment value of programming, they also by necessity decrease the ties of stations to local events in any particular community.

Indeed, the overall number of stations offering any substantial commitment to local news and public affairs programming is decreasing. Thirty years ago in Madison, Wisconsin, for example, there were three different commercial radio stations (each with a separate owner) that had fully-staffed news departments. Today, with far more stations, only three owners control most of commercial stations in the Madison market -- and only two of those stations have true local news departments.

III. News, Public Affairs, and Civic Involvement – In Short, the Emblems of Public Interest – Are Increasingly Shortchanged as Ownership Concentrates.

Although station owners could, theoretically, make news and public affairs programming appealing to niche format audiences by producing it in the appropriate vernacular, this is simply

[6] *See* Lawrence K. Grossman, *The Death of Radio Reporting: Will TV Be Next?*, Colum. Journalism Rev., Sep. - Oct. 1998, at 61.

not happening. As the developments in Madison and elsewhere demonstrate, concentrated media ownership has meant news and public affairs are shunted to a limited number of outlets. If a monopoly local newspaper took control of one of the limited number of radio ownership groups that remains committed to news and public affairs, it would further diminish the overall variety of sources available to the community – and directly undermine the First Amendment value that "the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public. . . ."[7]

The risk is real that a radio station owned by a local newspaper would simply serve as a cross-promotional vehicle rather than serve as an independent editorial voice. In Madison, for instance, such skewing of the editorial process is already taking place. In one recent instance, the local daily newspaper monopoly was the sponsor of a local blues music festival. It was scheduled at the same time as a music and food festival sponsored by the Greater Madison Convention & Visitors Bureau. Rather than cover both festivals as significant social and cultural events in the community, the local daily newspaper monopoly all but ignored the food and music event that did not carry its logo – even though it was an important event sponsored by a major civic organization. If this publisher had also owned a significant segment of the local radio market, one might imagine that many people in the community would have had little chance to learn about all of the events in that community, especially events that compete with those sponsored by the combined media entity. The flow of community information would be seriously compromised by an exercise of market power, control and dominance. Such an outcome is not in the public interest.

[7] *Associated Press v. U.S.*, 326 U.S. 1, 20 (1945).

IV. The Overbearing Market Power Created By Local Daily Newspaper / Radio Station Combinations Will Harm Both Advertisers and Consumers.

The exertion of market power is not limited to editorial decision-making. As the Commission has noted: "advertisers spend about 45% of all local advertising dollars on newspapers, about 16% on radio stations . . . ."[8] In a heavily consolidated market, in which a single monopoly daily newspaper owner purchases a group of stations, the newspaper/radio combination would have great incentive to engage in predatory conduct. Mid-West has had first-hand experience competing with such newspaper/broadcast combinations in three markets: Rockford, Illinois, Madison, Wisconsin and St. Joseph, Michigan. In these cities, daily newspapers, during their tenure as licensees, gave preferential treatment to advertisers using both the newspaper and newspaper-owned radio stations. Many viewed these preferences as punitive actions against advertisers who advertised on non-newspaper owned stations. In Mid-West's experience, advertisers that cooperated by limiting their radio buys to newspaper-owned stations received preferential rates and better placement of their advertising in the newspaper.

The risks are great that a local newspaper, already dominating a local advertising market, could actually end up controlling it through cross-ownership of local radio stations. This risk militates that the Commission remain wary and vigilant. Any rule changes should ensure that competition remains vigorous; monopoly daily newspapers should not be allowed to destroy competition through the acquisition of Commission licenses. Therefore, in markets in which the monopoly newspaper already controls a substantial portion the local advertising market, the Commission should establish specific thresholds limiting the newspaper's ability to engage in monopolistic practices. To do otherwise would ultimately support further monopoly control –

---

8 NPRM, *supra* n.2, at ¶21.

creating a disservice to advertisers and, ultimately, to the public which indirectly pays for advertising through the markup on the goods and services it purchases. The public also stands to lose valuable commercial information supporting diverse media voices in a market as monopoly newspaper/broadcasting combinations exert market power and keep advertisers away from other stations.

Although some advertisers use only radio or only newspaper advertising, the vast majority of advertisers use both – either in combination or as alternative outlets depending on the particular promotion, the available inventory in the particular medium, or the rate charged. Thus, the ability to affect the positioning of ads in the newspapers can very well influence that advertiser's choice when choosing a radio station on which to place a spot. Moreover, in radio group ownership situations, competing groups very often have stations with similar formats. Thus a radio advertiser may reach a desired demographic on any number of stations. Preferred placement of an advertiser's print ads could very easily dictate its choice in radio stations.

V. The Commission Should Establish Bright-Line Limits on Cross-Ownership.

As already noted, the risk is great that a monopoly daily newspaper, allowed to purchase local radio stations, will use its market power both to hinder competition in the selling of advertising and, through the exercise of that power, limit the diversity of viewpoints available to the community through news, information and public affairs programming. Clearly, this is contrary to the Commission's longstanding policies as well as its mandate to manage spectrum in the public interest. As established above, competition and viewpoint diversity are effectively linked through concentrated ownership. Therefore, the Commission should adopt a "market concentration" standard[9] to determine the conditions under which it is appropriate for a monopoly daily newspaper to cross-own radio stations in its home market. While standard antitrust measures can assist the Commission in this task, the Commission should not rely on these measures alone as they do not fully assess the values of viewpoint diversity and public interest programming coverage that have been valued by the FCC for so many years.

VI. Alternatives, Such as Structural Separation, Will Not Suffice.

In its 1998 Biennial Regulatory Review, the Commission found "that in 85 out of a total of 270 Arbitron radio markets, two entities already control more than 80% of advertising revenue; in 143 markets two entities control more than 70 percent . . . ."[10] In the face of such radio market concentration, Mid-West believes the Commission should forbid any monopoly newspaper from cross-owning broadcast station(s) in its home market when either commercial radio or television is dominated by three or fewer "significant" attributable owners. A radio owner with more than a 15 percent market share of radio revenue should be considered a "significant" attributable owner for purposes of this rule, as such a market share is the minimum for its having any real competitive impact in the marketplace. The anti-competitive and anti-diversity effects of further concentrating market power, as described above, simply pose too great a risk to the public interest to allow concentration in situations where there are fewer owners.

Alternative models, such as the Canadian practice of "structural separation"[11] do not address the problem of corporate cross-promotion hindering the flow of information from diverse

---

9 See NPRM at ¶¶38-39.

10 *1998 Biennial Regulatory Review*, *supra* n.3 at ¶55.

11 See *Id.* at ¶51.

and antagonistic sources – in support of the Commission's viewpoint diversity goals. Even if the broadcasting and newspaper interests of a single corporation are separately managed, they are ultimately accountable to the corporate parent – a corporate parent that controls even structurally separate management teams. The separation is, therefore, merely illusory. The temptation to conduct bottom line transactions that brush up against and transgress regulatory boundaries are, therefore, simply too great.

Moreover, structural separation is typically enforced through forfeitures or negotiated consent decrees – as is typical in telecommunications regulation. However, unlike broadcasting, the public interest in telecommunications generally lies within the statutory realm of competition and consumer protection. But, in broadcasting, the public interest additionally lies in Constitutionally-based First Amendment principles. Monetary enforcement measures, such as forfeitures and recompense through consent decrees, simply cannot make up for time-sensitive information and viewpoints lost to the public. For this reason, the Commission should maintain strict bright line standards to prevent such irreversible harms.

VII. Alternative Media and New Technologies Have Little Impact on Local Markets.

Although weekly newspapers have been successful in some markets, they do not replace daily newspapers and broadcasting as primary sources of local news and information. The time lag for weeklies is simply so great that many weekly publications place a heavy emphasis on service journalism, such as reviews, 'how-to' articles and merchant recommendations, as such material remains fresh for a longer interval than does traditional community news. At best, the public treats weeklies as a supplement to daily news sources, not as a replacement.

Although local cable does offer competition to established local sources for news and information programming in such large markets as New York City[12] and Washington, DC[13], cable does not offer significant competition in smaller markets that, at best, are served through the broad brush coverage offered on regional news channels.[14]

The Internet has certainly been growing as a news source – especially among younger audiences. The significant web sites offering *local news and information*, however, usually offer content from existing newspapers or broadcasters.[15] Such sites do not compete with traditional broadcasters and newspapers but, instead, complement traditional content by providing it through alternative means. As these alternative media sources do not create competition, they provide no reason to alter current Commission competitive analysis.

In the absence of any significant competition from newer delivery systems, newspapers and broadcasters remain the dominant sources of news, information and public affairs in smaller markets all over the country. Therefore, the ill effects of diminished competition and viewpoint diversity are not mitigated by the ongoing technological revolution, but actually exacerbated by it. Should a local daily newspaper company purchase a company with extensive local broadcast holdings, economic imperatives would militate for joint Internet operations – and a concomitant loss of diversity not only in traditional media, but in new media, as well. Therefore, the

---

12 NY1

13 News Channel 8

14 *E.g.*, NECN which services cable systems throughout the six New England states.

15 *E.g.*, in Madison, Wisconsin, Madison.Com is a service of the local daily newspaper publisher, Madison Newspapers, Inc.; Madisonsource.com is provided by an affiliate of Mid-West Family Stations; Channel3000.com is a service of WISC-TV, Madison.

Commission should proceed with great caution – if at all – in deregulating the common ownership of newspapers and broadcast stations in the same market.

Respectfully submitted,

/s/ Thomas Walker

Chief Financial Officer
Mid-West Family Stations
2740 Ski Lane
Madison, Wisconsin 53713

Dated: December 3, 2001